**Department of State Health Services**
**Council Work Session Agenda Memo for State Health Services Council**
**February 28, 2013**

**Agenda Item Title:** Repeal of rules and new rules concerning provider network development

**Agenda Number: 2.b**

**Recommended Council Action:**

__X__ For Discussion Only

_____ For Discussion and Action by the Council

**Background:**

The Mental Health and Substance Abuse (MHSA) Division provides oversight and direction to state-operated and contracted programs serving individuals with mental illness and substance use disorders in Texas. The division operates eight state mental health facilities and contracts with 37 local mental health authorities (LMHAs), one local behavioral health authority, one managed care organization, and numerous substance abuse treatment program providers.

The rules apply specifically to LMHAs, which are responsible for planning, resource development, coordination, and other functions within their designated service areas. In FY 2012, LMHAs served 112,709 adults and 30,436 children (excluding the NorthSTAR service area).

Funding comes primarily from the Mental Health Block Grant, General Revenue, and Medicaid.

**Summary:**

The purpose of the repeals and new rules is to simplify the planning process for LMHAs, streamline the plan content, reduce barriers to provider participation, and promote more rapid development of provider networks. The revision reorganizes and revises rule language to enhance accessibility and readability. The review of the rules complies with the four-year agency review required by Government Code, Section 2001.039, and incorporates a new statutory requirement for LMHAs to post a list of their external providers on their websites.

The proposed rules specify the procedures for LMHAs to develop a plan and procure services from external providers. The plan must reflect local priorities and maximize consumer choice and access to services. The rules also specify the conditions under which an LMHA can continue its role as a direct service provider, special provisions for procurement, and requirements for the process used to obtain a consumer's choice of provider. The rules provide a provider appeal process with three levels, including state review.

Significant changes to the rules include requiring LMHAs to:

- Only document a provider availability assessment when there are no interested providers.
- Provide a rationale for any provision that would limit consumer choice or prevent procurement of all available capacity offered by external providers.
- Use a standard procurement template approved by DSHS, and approve modifications through the local network development plan.
- Refrain from applying more rigorous standards to contractors than applied internally.
- Pay contractors the current Medicaid rate for services provided to all clients.
- Maintain and provide consumers with a standardized profile for each provider.
- Work with providers and stakeholders to establish a plan to promote consumer transition to the external network when a new provider joins the network.

The proposed changes will reduce the time and effort required to complete the plan, particularly for LMHAs with no interested providers. If the changes are successful in accelerating network development, some LMHAs may be devoting fewer resources to direct service delivery and more to network management. The revisions will ensure providers receive the full Medicaid rate and provide an avenue for appeal. They may also reduce potential barriers to network participation and enable providers to generate revenue to support operations more quickly after joining a network. Consumers will have more detailed information when choosing a provider.

**Key Health Measures:**

The rules are designed to result in the expansion of external provider networks in areas with willing providers, particularly the large urban centers. A robust provider network may increase consumer satisfaction and promote quality improvements by offering consumer choice and fostering competition. In this early phase of network development, a key measure that has been identified is the percentage of services delivered by external providers.

In 2012, external providers delivered 87.6% of children's residential services, 39.5% of adult residential services, 3.0% of children's outpatient services, and 4.3% of adult outpatient services. It is anticipated that there will be an increase in the volume of services provided by external providers with the rule changes.

**Summary of Input from Stakeholder Groups:**

The Local Authority Network Advisory Committee (LANAC) advises DSHS on technical and administrative issues that directly affect LMHAs, including these rules. The LANAC established a workgroup with representatives from LMHAs, private mental health service providers, consumers, and public officials. The workgroup's draft document was accepted by the full LANAC. The proposed rule language has been reviewed by:

- LANAC and the Council for Advising and Planning,
- Texas Council of Community MHMR Centers,
- Local Mental Health Authorities,
- Behavioral Health Advocates of Texas, and
- Mental Health America Texas and Disability Rights Texas.

In response to stakeholder comment, a provision was added requiring LMHAs to work with stakeholders to develop a plan to promote client transition to the external network. Additional revisions were made to clarify or refine other provisions.

There are two key issues for stakeholders: rates/reimbursement and procurement. Private providers have expressed concerns over low rates/reimbursement and the procurement processes at the various LMHAs. The proposed rules are intended to address these concerns. LMHAs may express concern regarding the new requirement to pay contractors the full Medicaid rate. Some LMHA may also object to using a standardized template for procurement and seeking approval for local modifications. DSHS has been working with representatives from the Texas Council and LMHAs regarding these issues. DSHS will continue to work with all parties during the transition period.

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